

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>JODY R. JORDAN</b>	)	
Claimant	)	
VS.	)	
	)	
<b>CDK CONTRACTING COMPANY</b>	)	Docket No. 244,775
Respondent	)	
AND	)	
	)	
<b>LIBERTY MUTUAL INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent and its insurance carrier appealed the May 4, 2000 preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish.

**ISSUES**

This is a claim for a January 12, 1999 accident and alleged injury to the neck. After conducting a second preliminary hearing on May 3, 2000, at which additional medical reports were presented, and after reviewing the deposition testimony of two witnesses who testified on respondent's behalf, Judge Frobish determined that this claim was compensable and that claimant should be evaluated by a court-appointed physician.

Respondent and its insurance carrier contend Judge Frobish erred. They argue that claimant has failed to prove his present neck complaints are related to the January 12, 1999 accident. That is the only issue on this appeal.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date, the Appeals Board finds:

1. The preliminary hearing Order should be affirmed.
2. On January 12, 1999, a jack stand fell from a scaffold, striking claimant's face and hard hat and knocking him to the ground. For one or two days following the accident, claimant experienced stiffness and soreness in his neck and back. But those symptoms

resolved and claimant went weeks without neck complaints until April 26, 1999. On that date, claimant awoke with discomfort in his neck. Later that day, claimant experienced pain in his neck while climbing a ladder at work. Claimant's symptoms then worsened to the point that he was unable to do his job. Two days later, claimant sought medical treatment for his neck.

3. In early May 1999, claimant had an MRI that produced results consistent with a herniated disk and a posterior osteophyte formation at the C5-6 level. In late May 1999, claimant saw a neurosurgeon who diagnosed a spondylotic spur at C5-6. In September 1999, claimant saw an orthopedic surgeon who diagnosed cervical spondylosis with associated left upper extremity radicular pain.

4. Claimant now requests additional medical treatment for his neck and alleges that his neck condition is directly related to the January 12, 1999 work-related accident. But because of the time that elapsed between January 12, 1999, and the April 26, 1999 symptoms, when claimant's neck was symptom-free, respondent and its insurance carrier contend that claimant's neck problems are not related to the January 1999 accident.

5. At this juncture of the proceeding, the only medical report in evidence that addresses the relationship of claimant's present neck symptoms to the January 1999 accident is from claimant's family physician, Dr. Martin T. Cooper. In his May 20, 1999 report, Dr. Cooper indicated that he thought claimant had a herniated disk that was consistent with the January 1999 accident. The doctor wrote, in part:

. . . The only injury Jody [claimant] reports ever having was back in January of 1999 when he was at work when a jack stand weighing approximately 20 lbs. fell about 30 feet off a scaffold and landed on the top of his head. He had a hard hat on but his head was forced back. Initially he had some pain but things settled down and just recently the pain has been getting worse and worse and [is] now radiating down his left arm. . . . He has had absolutely no injury since that time. . . . Clinically on exam I felt he had symptoms consistent with a herniated disk in his neck and subsequent MRI scan has confirmed this. . . . I understand from Jody that the work place is a bit reluctant [sic] to accept the injury in January as causing his present problems as he did have a period of several months where he really did not have any neck pain. However, going over his history this is the only injury that he has had and certainly sounds like from the force of the injury to his neck this definitely could cause a herniation. He has also had no recent injuries since that injury in January that would explain a herniated disk. I have seen a number of patients over the years who have had injuries of the back and neck, have a herniated disk and really not have much in the way of symptoms for several months afterwards. I feel his herniated disk is consistent with the injury in January, 1999 at work.

It is clear from Dr. Cooper's report that he is very familiar with the course of claimant's symptoms.

6. The Appeals Board affirms the Judge's finding that claimant's neck injury and present need for medical treatment is directly related to the January 12, 1999 accident and, therefore, is compensable under the Workers Compensation Act. That conclusion is supported by Dr. Cooper's expert medical opinion, which is persuasive in the absence of contrary expert opinion. The Appeals Board has reviewed the other medical reports presented at the first preliminary hearing that was held in July 1999 and the other medical reports presented at the May 3, 2000 preliminary hearing. But those records do not specifically address the question of causation.

**WHEREFORE**, the Appeals Board affirms the May 4, 2000 preliminary hearing Order entered by Judge Frobish.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 2000.

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BOARD MEMBER

c: Timothy A. Short, Pittsburg, KS  
Douglas M. Greenwald, Kansas City, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director